

BRIAN D. CARSTENS AND ASSOCIATES
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

March 22, 2001

Ms. Jennifer Dam, AICP
Planning Department
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

RE: GARBER POINTE - C.U.P.
NORTH 1ST STREET AND GARBER AVENUE

Dear Jennifer,

As per our discussions yesterday afternoon, we have come up with a revised site plan for the above mentioned Community Unit Plan to address staff concerns regarding density, parking, scale of buildings, and setbacks to the north, east and south.

Density- We have revised the C.U.P from 26 dwelling units as originally submitted down to 22 dwelling units.

Parking- We have still shown the same number of parking stalls, however, with the reduced number of total dwelling units, we now have 8 additional non-required parking stalls. This should alleviate your concern for guest parking.

Scale of Buildings- We have removed the second level from the east buildings, where there was some concern of the proposed buildings being much taller than the existing mobile homes to the east. We are showing two story buildings on the north and south sides. These buildings would only be two story in the center two units of each building.

Setbacks- We have revised the setbacks as requested by staff to 30 feet on the north, east and south sides of the project. We have also moved the east row of buildings west 10 feet to allow for the installation of decks on these units.

Please contact me if you have any further questions or comments.

Sincerely,

Brian D. Carstens

cc. Noel Chadd

ENCLOSURES: Copy of Revised Site Plan

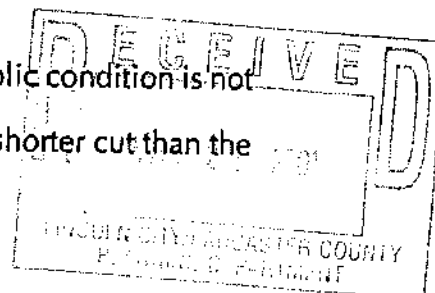
INTER-DEPARTMENT COMMUNICATION

TO Jennifer Dam
DEPARTMENT Planning
ATTENTION
COPIES TO

DATE March 23, 2001
FROM Rick Peo *Rick Peo*
DEPARTMENT City Law
SUBJECT Dedication of right-of-way
as a condition of approval
of a special permit for a
community unit plan

I do not believe the City may require the applicant to dedicate an additional 17 feet of right-of-way in order to provide the 50 feet of right-of-way east of the centerline in order to be in conformance with the Comprehensive Plan. Pursuant to Dolan v. City of Tigard, 512 U.S. 374, 114 S.Ct. 2309 (1994) and Simpson v. City of North Platte, 206 Neb. 240, 292 N.W.2d 297 (1980), the City may not require the dedication of right-of-way as a condition of approval of a special permit solely to bring the width of the abutting street into conformance with the Comprehensive Plan. Both Dolan and Simpson require a nexus and proportionality between the required dedication and the impact of the proposed use. And in Simpson, the Nebraska Supreme Court specifically rejected the idea that dedication could be justified on the basis that that was the amount of right-of-way shown in the Comprehensive Plan. The Court was quick to point out that the Comprehensive Plan is merely a guideline and is not binding. Although the City may require the dedication of a street as part of the subdivision process, there is no similar authorization for the City to require such dedications as part of the approval of the special permit. As stated in Pennsylvania Coal Co. v. Mahon, 260 U.S. 393, 413, 43 S.Ct. 158, 159-160 (1922):

...[A] strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way of paying for the change.



ERP/ce

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INTER-DEPARTMENT COMMUNICATION

DATE March 21, 2001

TO Jennifer Dam, City Planning

FROM Sharon Theobald
(Ext. 7640)

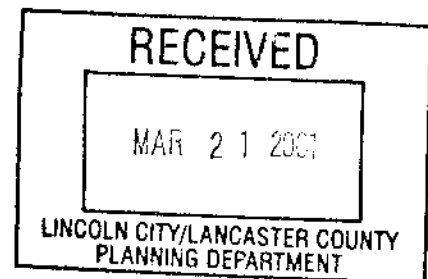
SUBJECT DEDICATED EASEMENTS
DN #28N-1E

Attached is the Site Plan for Garber Pointe.

ALLTEL, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map.

It should be noted, any relocation of existing facilities will be at the owner/developer's expense.

ST/nh
Attachment
c: Terry Wiebke
Easement File

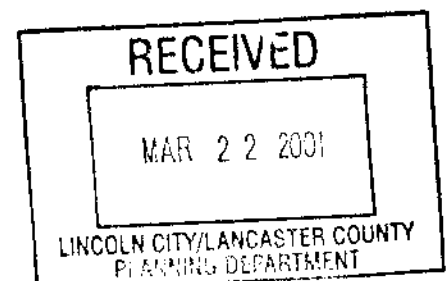


**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Jennifer Dam	DATE: 3/19/2001
DEPARTMENT: Planning	FROM: Chris Schroeder
ATTENTION:	DEPARTMENT: Health
CARBONS TO: Leon F. Vinci, MPH EH File EH Administration	SUBJECT: Garber Point CUP SP #1905

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed Garber Point CUP for possible negative public health impacts and has noted the following.

- Sewage disposal will be the City of Lincoln Collection system.
- Water supply will be the City of Lincoln water system.
- Efforts must be made to control wind and water erosion during the construction of this proposed addition.
- If any trees and/or brush is to be removed from this site, disposal must be by burial on-site, landfill, grinding, or by offering as firewood. A permit for burning will not issued for burning inside the City Limits nor is it likely for within the three mile limit.



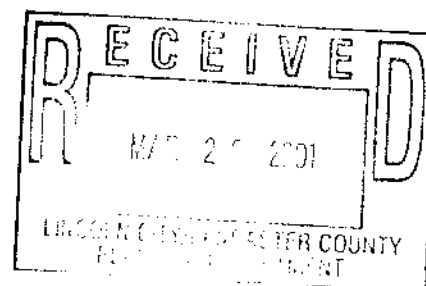
Memorandum

To: Jennifer Dam, Planning
From: Rachel Martin, Parks and Recreation
Date: March 22, 2001
Re: Garber Point

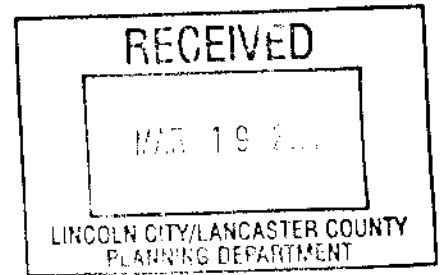
Parks and Recreation Department staff have reviewed the above-referenced proposal and have the following comments:

- 1) Site located within service area of Roper (I-80) Park and West Lincoln Park.
- 2) Please provide additional detail regarding the proposed playground. It is recommended that the playground include a swing and small play structure. The equipment, surface, and layout should conform with Consumer Safety Product Commission Standards. The playground should be accessible by walkway and include a bench for adult supervision of play activities.
- 3) Designated street tree for North 1st Street needs to be changed to 'Donald Wyman' or 'Professor Sprenger' Crab instead of Snowdrift Crab.
- 4) Berms on North 1st Street in 25' setback area should not be located over underground utilities. Send plan to LES for review to determine any conflict.

Please phone me at 441-7936 with any questions.



Memorandum



To: Jennifer Dam, Planning Department
From: Charles W. Baker, Public Works and Utilities *CB*
Subject: Garber Pointe CUP, Special Permit # 1905 and Change of Zone # 3317
Date: March 16, 2001
cc: Roger Figard, Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed apartment complex, Garber Pointe, located at N 1st and Garber Avenue related to Special Permit #1905 and Change of Zone #3317. Public Works has the following comments:

Public Works has no objections to the proposed change of zone.

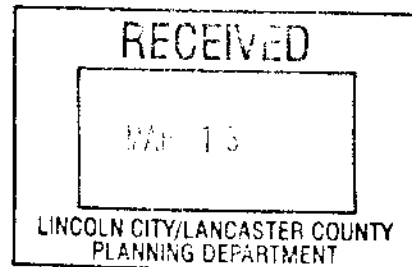
The proposed 7' dedication of additional right-of-way needs to be 17'. Public Works requests a total of 50' from the center line of 1st Street adjacent to this property.

Private Water Mains and Sanitary Sewers are proposed for this CUP and Public Works has no objections.



March 12, 2001

Jennifer Dam
City-County Planning Department
555 So 10 St
Lincoln NE 68508-3992



SUBJECT: Garber Pointe CUP SP #1905

Jennifer,

I have reviewed the above-mentioned request.

I find no concerns on behalf of the United States Postal Service and would agree with this proposal as submitted.

Please feel free to call me with any questions.

Thankyou,

A handwritten signature in cursive script, appearing to read "Ronald G. White".

Ronald G. White
Supv. Customer Service Support



Ray F Hill

03/13/2001 10:31
AM

To: Jennifer L Dam/Notes@Notes
cc:
Subject: Garber Cup Cup SP # 1905

----- Forwarded by Ray F Hill/Notes on 03/13/01 10:36 AM -----



"M. Woolman"
<lpd737@CJIS.CI.LIN
COLN.NE.US>

03/13/01 09:55 AM

To: RHill@ci.lincoln.ne.us
cc:
Subject: Garber Cup Cup SP # 1905

Ray,

The Lincoln Police Department has no objections to the Garber Pointe Cup SP #1905.

Project Planner - Jennifer Dam

Michael S. Woolman
Planning Sergeant
Lincoln Police Department